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An Empirical View of the Extent of Exercising the Education Exception to Copyright in Cultural Heritage Institutions

Abstract. The article presents findings from a study funded by the Estonian Ministry of Justice titled ‘Extent of Use of Educational Exceptions of Copyright in Cultural Heritage Institutions’. The impetus for this work came from the fact that rights-holders, who are not compensated for the use of copyrighted works and material covered by related rights under the educational exception, desire compensation for such use yet data pertaining to the practices of educators conducting education programmes in cultural heritage institutions are scarce. The study’s results are important for the holders of the rights but also for policymakers and for those providing professional-development courses to the educators such that their practices could be fully aligned with the education exception to copyright. A 105-respondent questionnaire – adapted from an instrument used in a similar study that focused on educators in pre-school education, basic schools, upper secondary schools, vocational-education institutions, institutions for professional higher education, universities, ‘hobby schools’, and continuing-education institutions – among educators who are not copyright experts helped answer the question ‘What is the extent of exercising the education exception to copyright in cultural heritage institutions in Estonia?’. The paper explains the quantitative results further in light of focus-group interviews with seven representatives of cultural heritage institutions, of several types. Also, the results of this study are compared with the findings from the earlier one. The results, which shed light on copyright awareness, the form and extent of copying, etc. in relation to literary and reference works, photographs, musical works, and audiovisual works, indicate that Estonian cultural heritage institutions’ reliance on the education exception is in accordance with copyright law and, therefore, significant changes in related policy are unnecessary. However, responses to the survey and interview questions revealed aspects that could be addressed in designing guidelines and professional-development activities for educators in cultural heritage institutions.

Keywords: copyright, educational exception, cultural heritage institution

1. Introduction

This article examines the key findings from a study commissioned by the Estonian Ministry of Justice, the final report from which, whose title translates to ‘The Extent of the Use of the Educational Exception to Copyright in Cultural Heritage Institutions’, was published in 2023^{*1}. In essence, both are continuations of prior work investigating application of the education exception^{*2} in practice, the main results of which were similarly published in *Juridica International*.^{*3} The study was guided by the following research question: ‘What is the extent of exercising the education exception to copyright in cultural heritage institutions in Estonia?’

In the development of the follow-up study, the central objective was that the methodology and the interpretation of results remain the same as in the previous endeavour, irrespective of the fact that there are significantly more teachers than there are cultural-heritage-institution-affiliated education workers. Otherwise, the two studies would not be comparable, and the results of the follow-up study would not assist in clarifying the situation and informing legal-policy decisions. Interpretation of the results reported upon here should take into account the findings from the previous study, for a holistic perspective taking advantage of the broader-based project.

The main difference between the teacher-related study and the later work lies in the target respondents. Where the first study centred on teachers’ use of protected material (works and objects of related rights) across all education levels, the follow-up one focused on cultural heritage institutions. According to Estonia’s Copyright Act^{*4} (CA), this category encompasses publicly accessible libraries and museums, archive institutions, and film and audio-heritage institutions.^{*5} In their work, the researchers sought to understand the degree to which educational and cultural heritage institutions utilise protected materials and to evaluate the compatibility of such use with the educational exception.

The term ‘educational exception’ refers to a broad category of copyright exceptions that permit the use of protected materials for education-related purposes without infringement being deemed to occur. Given that the concept of the educational exception has been extensively analysed in previous research articles^{*6}, such analysis is not undertaken in this paper.

It is crucial to recognise that valid invocation of the educational exception is more constrained for cultural heritage institutions than for educational institutions. Most articulations of copyright exceptions incorporating an education-linked component specifically identify the latter as the intended beneficiaries of the exception.^{*7}

The copyright exception for educational purposes, as specified in Section 19 (1), clause 2 of the CA, is formulated on the basis of purpose rather than with regard to specific beneficiaries.^{*8} This implies that everyone, not excluding cultural heritage institutions, is entitled to rely on it for the educational activities undertaken. Cultural heritage institutions may rely also on the right to quote, the exception granted for on-site consultation, the exception for advertising of exhibitions, and the exception for personal use.

¹ This paper is based on that report, ‘Hariduserandi kasutamise ulatus kultuuripärandiasutustes’, which is freely available from the ministry via <<https://www.just.ee/uuringud>> accessed on 27 February 2024.

² A Kelli, Ä Leijen, and M Pedaste (2022), ‘Autoriõiguse hariduserandite kasutamise ulatus. Küsitluse tulemused ja metoodikaraport [Extent of Use of Education-based Exceptions to Copyright: Survey Results and Methodology Report]’, report 1–52 commissioned by the Ministry of Justice.

³ A Kelli, M Pedaste, and Ä Leijen, ‘An Empirical View of the Extent of the Use of the Education Exception to Copyright’ (2023) 32 *Juridica International* 74. – DOI: <https://doi.org/10.12697/ji.2023.32.07>.

⁴ RT I 1992, 49, 615; RT I, 29.6.2022, 2.

⁵ Copyright Act, s 17¹(3).

⁶ See A Kelli, M Pedaste, and Ä Leijen (n 3); K Nemvalts and A Kelli, ‘Hariduserand autoriõiguses [The Educational Exception in Copyright Law]’ (2021) 10 *Juridica* 705; A Kelli and others, ‘Üliõpilane ja autoriõigus [Students and Copyright]’ (2020) 5 *Juridica* 378.

⁷ See the CA’s s 19(1), cls 3 and 3², and its s 22.

⁸ The clause reads, in translation: ‘The following is permitted without the authorisation of the author and without payment of remuneration if mention is made of the name of the author of the work (if it appears thereon), the name of the work, and the source publication: ... use of a lawfully published work for the purpose of illustration for teaching and scientific research to the extent justified by the purpose and on condition that said use not be carried out for commercial purposes.’ The exception is applicable for objects of related rights as well (per the CA, s 75(1), cl 6).

In the initial work to translate content of the report that served as the starting point for this article from Estonian into English, the authors utilised the ChatGPT-4 model. Preparation of the final paper attended closely to verifying preservation of the intended meaning throughout.

2. Methodology behind the study

2.1. The study design and sample

The study's design differentiated between a quantitative phase and qualitative enquiry conducted after that. In the quantitative phase of the study, a questionnaire-based survey was administered in the LimeSurvey electronic research environment, hosted on a University of Tartu server. The study covered individuals identified as employees of Estonia-based cultural heritage institutions – libraries, museums, and archive maintainers (including institutions dealing with the preservation of audio and film heritage) who had conducted education programmes. The qualitative part of the study employed focus-group interviews to deepen understanding of the data collected in the quantitative phase. Employees from all three categories of cultural heritage institution participated in this process.

For a complete, representative sample, the aim was the broadest possible coverage of all cultural heritage institutions in Estonia. Therefore, the effort began with approaching the leaders of the Estonian Librarians' Association, the Estonian Museum Association, and the Estonian Association of Archivists with a request to distribute a set invitation to participate in the survey throughout their respective communities. A week later, the researchers distributed a follow-up invitation directly to a set of contacts that covered all national libraries, Estonia's university libraries, 15 county libraries, three major city libraries (Tallinn Central Library, Tartu City Library, and Narva Central Library), museums that publicly available information indicated had run at least one educational programme in 2021 (168 institutions in all), other museums for which contact details accessible to the public at large were found, and various archives (identified from searching for contact details online via registries such as the Estonian Research Information System's database of collection and holdings compilers). Thus, the sample was designed to target all educators who worked at cultural heritage institutions in Estonia, thereby permitting country-level generalisations to be drawn validly. It is important also that recruitment of participants did not specifically target any group known for (or likely to express) a particular stance on copyright issues. This further assures of the representativeness of the sample. In addition, collection of data from such a sample allows for comparison between distinct target groups, since recruitment of participants was in no way biased – all three groups of institutions were approached in line with a single overarching scheme. In addition to the research team's initial general invitation and the reminder invitation, both sent by email, the researchers made use of social-media channels for their recruitment of informants.

The goal was for 60–70 participants at minimum. In total, 263 individuals started filling in the questionnaire form, but only 105 answered at least some of the questions related to education-linked exceptions (the questionnaire began with various background questions, without the answers to which it would be impossible to address the research question). Sixty-eight respondents were representatives of libraries, 25 museum workers, and 12 personnel of archives. The analysis presented here includes all of these respondents. Ninety-two people completed the questionnaire in its entirety.

Characterisation of the sample and the background characteristics of the participants involved referring to questions in four main sets:

- 1) ones addressing the main cultural heritage institution where education activities were being conducted (answers to subsequent questions referred back to this);
- 2) items probing for how many years the respondent had been involved in conducting educational programmes at cultural heritage institutions;
- 3) questions about the respondent's role/position at this particular cultural heritage institution (support specialist, management-team member, programme director, curriculum director, or some other position);
- 4) items requesting data on the participant's gender and age.

Most of the respondents (87 individuals) had one role at the cultural heritage institution, but some (18) held additional ones. Namely, 23 respondents were involved in the institution's management, 23 were

support specialists, 11 acted as programme director, four were curriculum directors, and 46 fulfilled other roles. Among the roles specified under ‘other’, that of librarian featured 16 times, museum educator / educator / archive educator eight times, and department head thrice. The number of respondents having other job titles, of various sorts, was smaller. Clearly, then, the participants in the study had a broader range of experience than solely work in conducting educational programmes. On average, they had amassed 11 years of experience in the latter area (ranging from less than a year to as much as 50 years’ experience).

In addition to completing the questionnaire, participants in this portion of the study were invited to take part in the focus-group interviews held later. Three library employees, two museum workers, and two archive personnel participated in these interviews.

2.2. The questionnaire

The Copyright Act (§ 4) defines a work by listing characteristics and includes a sample list of works. Regarding the context of the educational exception, the research teams regarded literature, art, music, and audio-visual works as relevant. Also examined were related rights such as performance and recording rights. Programmes’ education process may employ materials subject to any of several legal regimes. For the purpose of compiling the survey for the study reported upon here, protected content was divided into three general categories:

- 1) material not subject to copyright (this category may include works whose term of protection has expired, official documents, etc.);
- 2) material whose use stems directly or indirectly from the consent of the rights-holder (e.g., for example, under licenses, subscriptions, etc.);
- 3) material whose use is justified by the educational exception (this involves situations wherein the person/institution conducting the education programme does not have the consent of the rights-holder to use protected material and relies on a restriction to copyright protections).

In this study, we focused specifically on identifying uses grounded in the educational exception. To enhance comparability with other studies (including the similar study conducted among teachers and university lecturers), we based our collection of background information on the OECD TALIS 2018 study⁹, which focused on researching the activities of teachers.

Our questionnaire predominantly used multiple-choice questions. Open-ended items were utilised solely for specifying the reasons for choosing the option ‘other’ in answers to various questions. Since an analogous questionnaire had already been piloted with three subjects in the education field – a teacher with experience in general-education school management and as a primary-school teacher, a kindergarten teacher having experience as a university lecturer, and a senior-level teacher in a general-education setting – and we wished to maintain comparability, it was not deemed necessary to conduct piloting specific to employees of cultural heritage institutions; however, the questionnaire’s content and its items’ wording were still examined in case there was a risk of seeming irrelevance alienating respondents and increasing the dropout rate.

2.3. The focus groups

The interviews were conducted in the Zoom environment and recorded with the consent of all participants, in full adherence to data-protection requirements and good research practice. There were two group interviews, and we carried out a third interview also, with a single individual, since the group-interview times were not suitable for that participant. Confidentiality was guaranteed to all participants. These semi-structured interviews featured clarifying questions centred on the main topics of the questionnaire, with the interviews’ primary aim being to collect examples of the various materials’ usage. The interviews were conducted by two of the researchers, who served, respectively, as discussion facilitator and a clarifier of questions related to the educational exception.

⁹ OECD Directorate for Education and Skills, material on the Teaching and Learning International Survey (2018), available via <<https://www.oecd.org/education/talis/>> accessed on 29 February 2024.

2.4. Data analysis

Analysis of the questionnaire responses began with generation of descriptive statistics. We considered both findings specific to each of the groups studied (those conducting educational programmes with libraries, museums, and archival institutions) and patterns across all respondents. To flesh out the picture, we examined responses to the open-ended questions so as to elucidate the situations behind exercising the option 'other' (the presentation of results below offers illustrative examples).

All interviews were transcribed, and the associated data analysis applied the principles of thematic analysis as outlined by Braun and Clarke.^{*10} This analysis highlighted major themes and subsidiary themes, and it also entailed comparing responses across separate target groups. The results from this analysis are presented as a complement to the discussion of quantitative findings. This approach ensures comprehensive understanding of the data by integrating the breadth of the statistical analysis with the depth of the qualitative insight.

3. Findings from the study

Respondents assessed their knowledge of copyright matters as average, both with regard to copyright in general terms and, more specifically, regarding licenses. The three groups examined did not differ statistically significantly from each other in their self-reported knowledge of copyright. Also, the level of knowledge reported by employees of cultural heritage institutions did not show divergence relative to the results among teachers and lecturers (from the previous study of the extent of application of the educational exception^{*11}). Furthermore, the answers to the first question in the interviews verified that the knowledge possessed by cultural heritage institutions' employees in this area seems generally good. The responses revealed that being informed about copyright issues formed a part of the respondents' work.

One of the core substantive questions was related to the form of copying (physical copies on paper or digital copying). Use of paper-based materials (presented in Figure 1, below) differed slightly across cultural heritage institutions: these were used most commonly in museums and almost as much in library settings (no statistically significant difference was visible), while use of paper materials was noticeably less frequent in archive settings. As for their use in cultural heritage institutions overall as compared with educational institutions, no statistically significant differences were evident^{*12}, although there were significant differences with various categories of educational institution. They were used less in higher education and in vocational education than in libraries' and museums' education programmes.

Copies were made slightly more often in archival institutions' education efforts, although the number of copies made varied considerably even in this case and the average number of copies made within any respondent group does not show statistically significant differences from the other groups' (as the figure shows). Generally, fewer copies were made in cultural heritage institutions than in any of primary, general, vocational, or higher education^{*13}, and the difference from hobby-related education was particularly strong. However, the data available do not allow for good comparison in the case of the archive-institution group, because relatively few respondents represented this class of institution, and their responses displayed extensive variability.

¹⁰ V Braun and V Clarke, 'Using Thematic Analysis in Psychology' (2006) 3(2) *Qualitative Research in Psychology* 77. – DOI: <https://doi.org/10.1191/1478088706qp063oa>.

¹¹ A Kelli, Ä Leijen, and M Pedaste (n 2).

¹² Ibid.

¹³ Ibid.

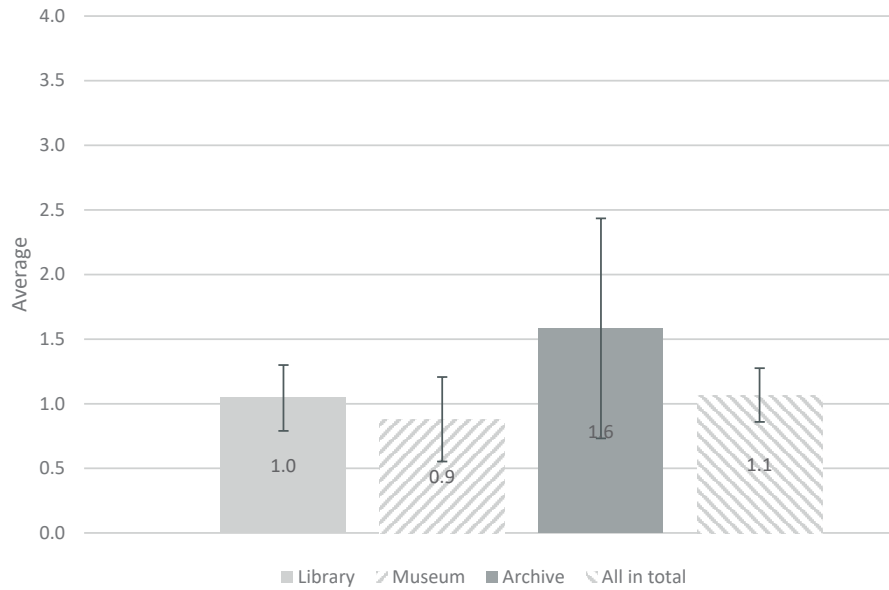


Figure 1. Prompted to think about the last month in which they were conducting an education programme, respondents were asked about how many distinct works (textbooks, workbooks, music pieces and lyrics, films, photographs, games) they had engaged in copying, either partial or of the entire work, whether digital (e.g., scanning of written material, downloading of digital files from the Internet, or sharing of a file on a USB stick with a learner) or in paper form for education-related purposes (scale: 0 = none, 1 = 1–5, 2 = 6–10, 3 = 11–15, 4 = 16 or more)

Participants were asked to what extent their use of relevant materials in the most recent month of conducting an education programme, as considered for this study, differed from previous periods'. Most frequently, employees of cultural heritage institutions did not feel able to draw a conclusion (35%); however, respondents did state fairly often that they used such materials in the same volume (see Figure 2).

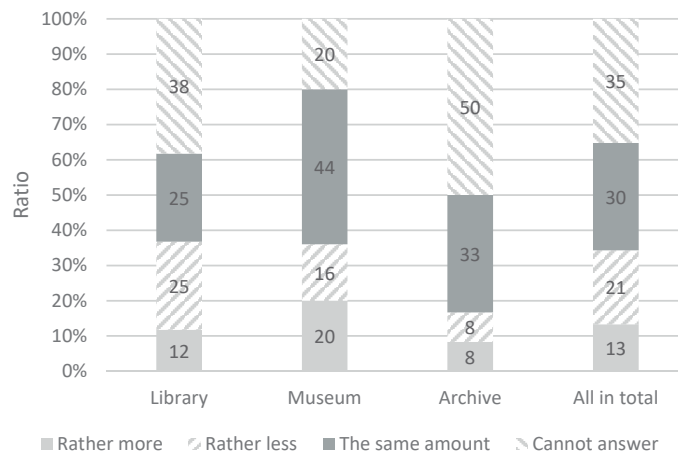


Figure 2. Respondents were asked to compare the last month in which they had been in charge of an education programme with an average month in the year prior with regard to copying of works or portions thereof. They had the options '1', for more copying in that recent month; '2', for less; '3', for no change; and '4', denoting inability or unwillingness to answer

When materials were copied, this very rarely entailed copying entire works, according to the respondents. Archive entities constituted an exception: here too, these respondents' assessments displayed quite a large amount of variability (as Figure 3 attests). In this respect, educators in archive settings were rather similar to teachers at 'hobby schools', special school providing systematic hobby education, while those responsible for education programmes in libraries and museums were similar to other teachers and lecturers.¹⁴

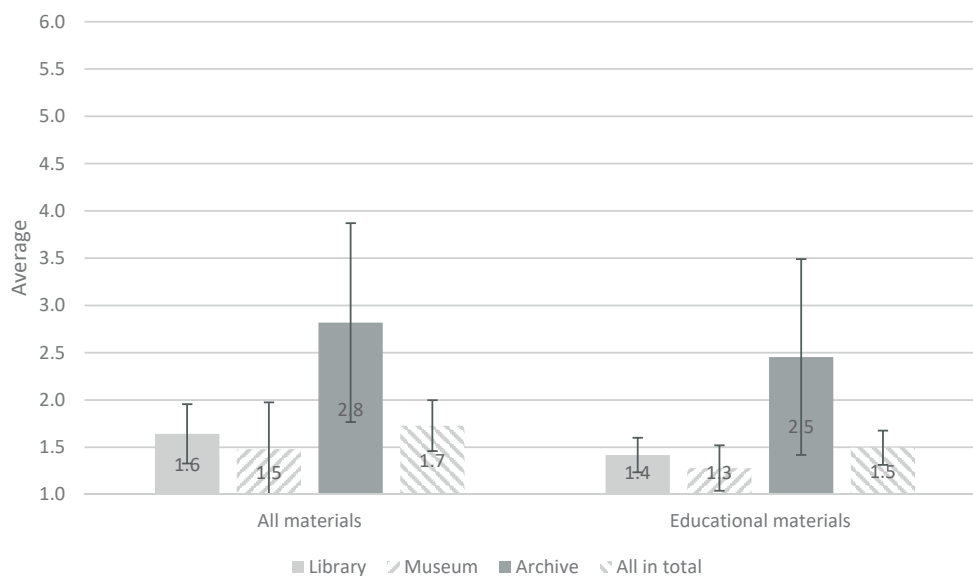


Figure 3. The survey asked respondents to assess the statement ‘For conducting an education programme, I have usually copied an entire work (regardless of whether it was intended for educational *versus* non-educational purposes) – e.g., an entire book, workbook, or music piece – and have not limited myself to excerpts (such as a chapter or a few pages)’ on a Likert scale with 6 denoting full agreement and 1 indicating complete disagreement. The image also captures their responses to the item ‘For education purposes, I have copied materials created for educational purposes (textbooks, workbooks, etc.) in their entirety (a whole book) and have not limited myself to excerpts (such as a chapter or a few pages)’ on the same scale

Verifying a pattern that emerged from the questionnaire results, the interviews attested that copying of entire works was very rare. There was one general exception – photographs. Although respondents identified instances of using fragments/details from photographs, said images typically functioned in their entirety in presentations and worksheets for cultural heritage institutions’ educational programmes. One library worker highlighted another exception. Discussing books intended for children, she explained that ‘we narrate the work in our own words and then try to get people to read it, but one major concern for us is with young[er] children. They come with children’s books that are short, and they often ask how it ends – they want us to read along with them; they want those “story mornings”. So those are like a point for us where we see that it actually serves educational purposes, at which we encourage them to read, we teach them to read, and afterward we discuss the topic; so to say, we teach them to think. We see it as an educational purpose’. Hence, with a small children’s book ‘it often is an entire work’. The institutions’ education programmes most commonly make use of excerpts, however.

The interview data bear this out. For example, a library employee mentioned: ‘We made copies of newspaper articles, and these were small pieces, illustrative examples [...] [T]he learners had the task of comparing separate pieces and recognising which one is machine-generated, which is real, and which is joke text.’ Another example came from an informant representing an archive maintainer, who described an archive-based lesson presenting a portion of a film showing how new school buildings were constructed in the 1930s. Another example was a segment from a longer Soviet-era newsreel showing first-year children going to school and taking part in a ceremony held for their first day there. Additionally, a museum worker cited the use of excerpts from memoirs, ‘which are then reprinted [...] from books of memories, and there

¹⁴ Ibid.

are always references below'. That interviewee emphasised this technique's prominence – 'even in the most recent museum lesson I created, I wrote a condensed biography, together with references below, indicating where I compiled this biography from, whether it was a book or there were also newspaper articles'.

Copying of literary and reference works was slightly more widespread in libraries and museums than in archive institutions (although the responses from archive employees again show substantial variability), and no group studied differed statistically significantly from the others. Figure 4 presents the relevant data. The findings show a parallel with the previous study's: similarly to teachers and lecturers, these respondents very rarely copied entire works of this kind.^{*15}

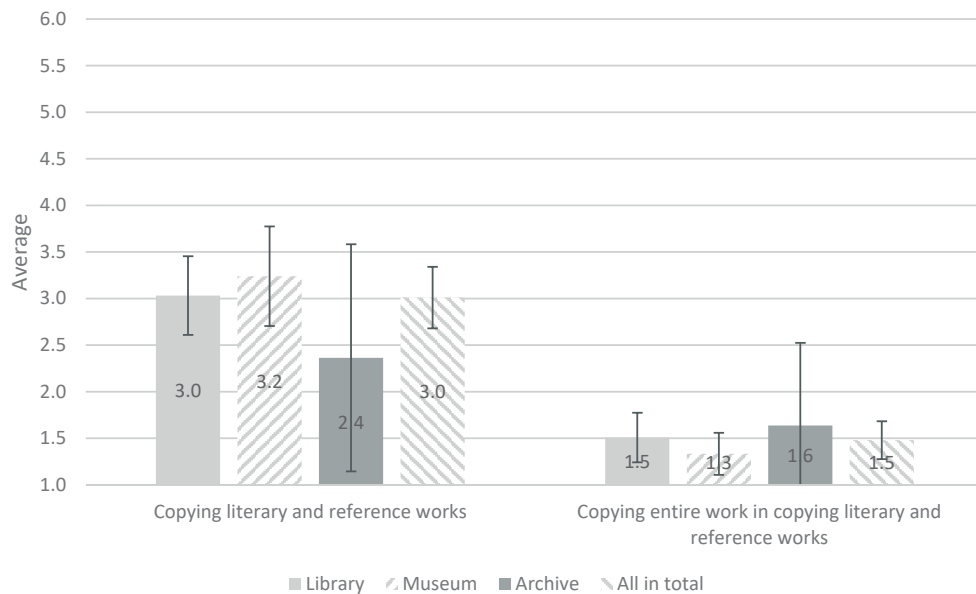


Figure 4. The survey asked whether the education programme in question involved copying of literary material, reference works, and other such written content (books/articles, drawings, illustrations, and diagrams), again with a follow-up question asking whether any such copying had entailed copying the entire work rather than excerpts only (a chapter, a few pages, a couple of illustrations/diagrams), on the above-mentioned 6-to-1 Likert scale

Libraries stood apart from other cultural heritage institutions in their use of literary works. One library worker explained that 'in library sessions, we actually use works from our own collection, so this also falls under the introduction of the collection^{*16}, which libraries are allowed to do'.

Copying of literary and reference works in cultural heritage institutions is split relatively equally between paper and digital formats (see Figure 5). The overall prevalence of these copying methods is similar to that in teachers' and lecturers' practices.^{*17}

¹⁵ Ibid.

¹⁶ The CA's s 20(3) provides that a 'cultural heritage institution has the right to use a work included in their collection without the authorisation of its author and without payment of remuneration for the purposes of an exhibition or the promotion of the collection to the extent justified by the purpose'.

¹⁷ See A Kelli, Ä Leijen, and M Pedaste (n 2).

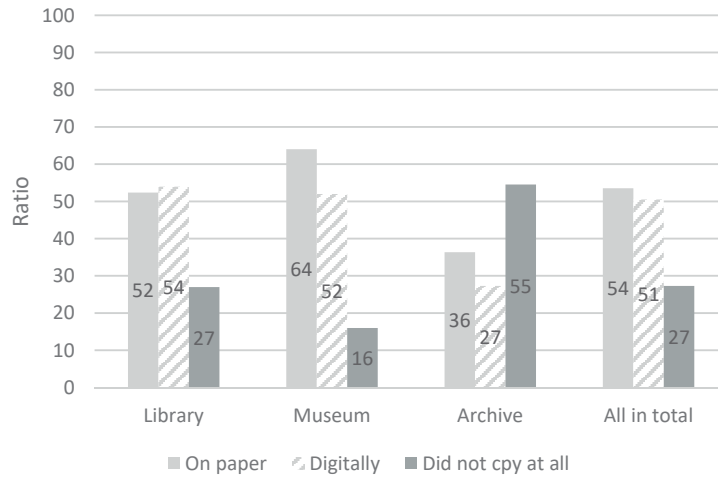


Figure 5. Asked about formats for copying of materials, respondents could mark any of the following that applied: copying on paper, digital copying (from scanning of written material, downloading of digital files from the Internet, or upload- or USB-based sharing of a file with learners), and no copying at all

In settings of educational programmes, copies were shared relatively infrequently (see Figure 6), with libraries’ and archives’ figures being slightly higher though the differences are not statistically significant. The practices of cultural heritage institutions in sharing copies of literary and reference works do not seem to differ significantly from those of teachers and lecturers.*¹⁸

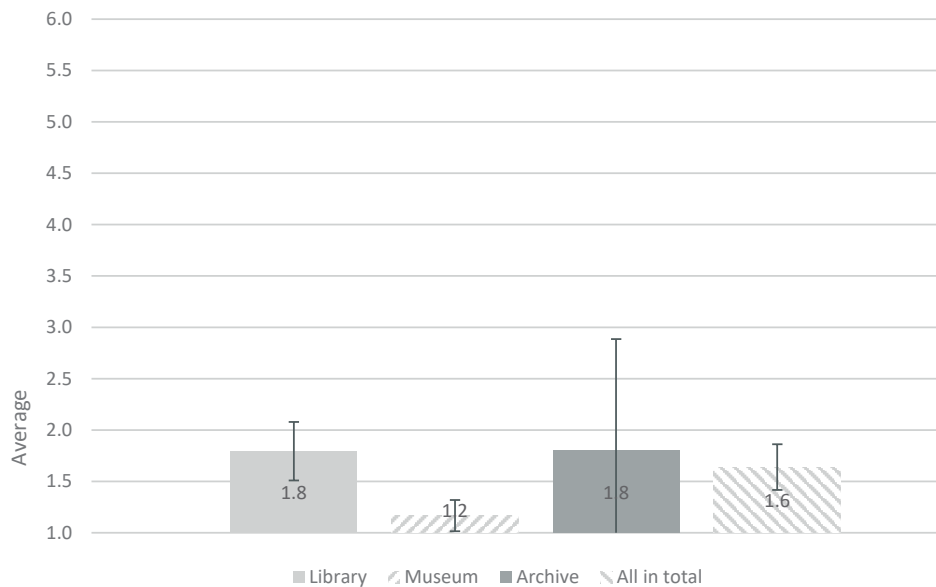


Figure 6. Scores on the specified scale for the item ‘I shared copies of literary and reference works with participants in the education programme for home study’, where 1 = ‘not at all’ and 6 = ‘very frequently’

When the cultural heritage institutions shared literary and reference works with participants in their education programmes, what they shared was seldom a copy of the entire work or even a part of it, and they almost never cited the name of the work. Other forms of sharing, discussed below, were relatively commonplace. The interviews backed up the questionnaire results in this regard: it was quite apparent that copies were shared rather infrequently by those conducting educational programmes in cultural

¹⁸ Ibid.

heritage institutions. This pattern, shown in Figure 7, differs from that visible among teachers and lecturers.^{*19} In addition to their somewhat larger proportion of other methods of sharing, cultural heritage institutions produced a larger share of responses indicating that they had not shared literary and reference works at all.

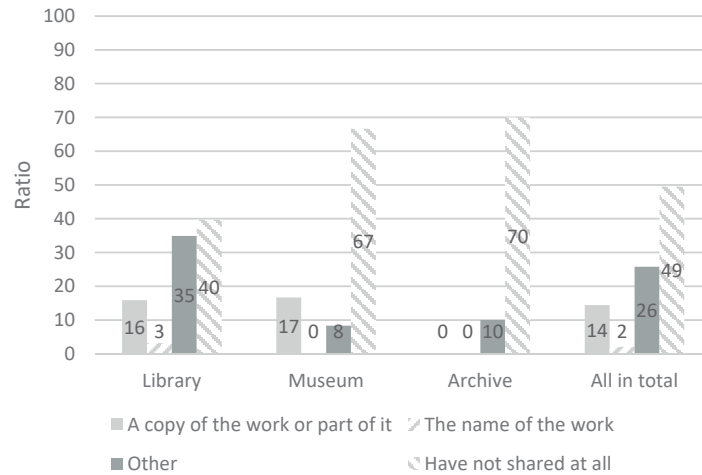


Figure 7. Responses for the item ‘In sharing of literary and reference works with participants in the education programme, I most commonly made available to them a copy of the work or part of it (1); the name of the work, such that the learners could study it independently (2); or other details/material (3)’. Respondents could mark ‘4’ if not having shared such content at all

Eight respondents elaborated on other methods of sharing. Their open-ended responses mentioned the following methods/materials: teaching of digital literacy, where ‘material’ in this context refers to online environments and computer programs, with direct use of works not being applicable; excerpts or parts of a work presented alongside guidelines for independent exploration of the rest; information from publicly accessible Web sites; books reviewed on-site; teaching that is ‘based on a curriculum and teaching materials I developed myself, which are evidence-based and properly cited’; primarily not sharing materials but conducting inclusive programmes wherein the learner creates meanings; reprography, or ‘repro’; methods applied through the creation of a Web-based cultural heritage environment; and presentations with a slideshow available for later viewing on the institution’s Web site.

As for copying of photos, our comparison across categories (education programmes of libraries, museums, and archive maintainers) revealed no statistically significant differences (see Figure 8). Copying of this nature proved slightly more prominent among the practitioners in cultural heritage institutions than among teachers and lecturers.^{*20} As for explicit sharing of photos (likewise presented in the figure), sharing occurred relatively rarely in the education programmes of cultural heritage institutions, which displayed a similarity to the findings for teachers and lecturers in this respect^{*21}. Between the two studies, no group-specific statistically significant differences emerged.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Ibid.

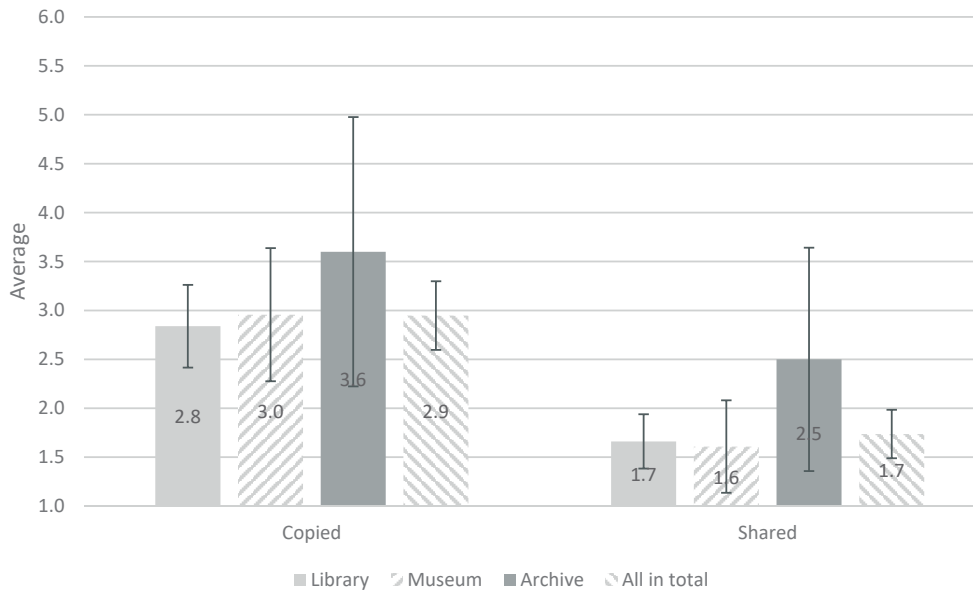


Figure 8. Responses to probing for the extent of use of photographic material in the education programme in question: ‘I have copied other people’s photos, whether on paper or digitally (individual images or, for example, material in presentation context)’ and to the item ‘I shared copies of photos with participants in the education programme and did not limit myself to just showing them’, both on a scale with 1 = ‘not at all’ and 6 = ‘very often’

In the interviews, representatives of archive institutions and museums highlighted their use of photos to illustrate various topics, more frequently than library personnel did. For instance, one museum worker interviewed stressed that ‘I predominantly use photos of our museum objects. These photos are often taken by us; they are our own scans’, mentioning also that I [might] use a copy of some document that has been donated to our museum’, an institution that ‘is very much based on personal stories, meaning we work with people and then I always want to add a photo to their story, so that the student can see who this Ants is’. Similarly, an archive worker explained: ‘We usually introduce our collections or illustrate them specifically, either through our database or literally by taking an album from storage and looking at it’, with examples being glass negatives and works by famous photographers.

The method for sharing of photos with participants in education programmes depended slightly on the type of cultural heritage institution, as Figure 9 clarifies. For libraries, sharing of copies and of links to content on the Web proved almost equally common, while the sharing of copies clearly predominated among museums and sharing of Web links was more commonplace in archive settings.

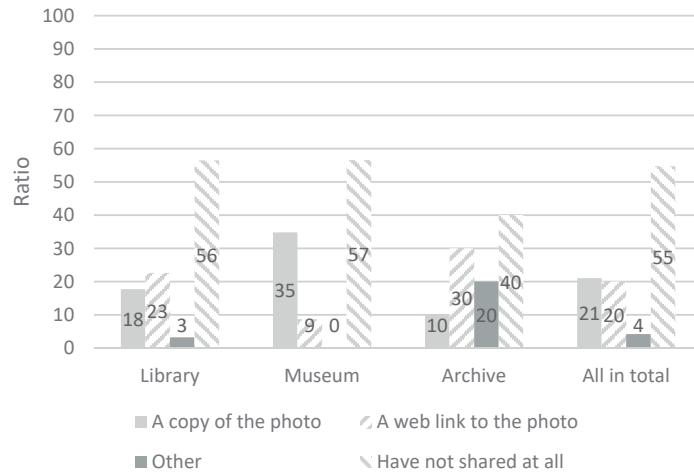


Figure 9. Responses for ‘When sharing photos with participants in the education programme, I mostly made available to them a copy of the photo, physical or digital (1); a link to the photo online (2); or other relevant information/content (3)’. Alternatively, respondents could mark ‘4’ if not having engaged in such sharing at all

Four respondents mentioned sharing by other means. Three of them elaborated on these methods: sharing details of the data source, sharing through a Web-based environment, and making a slideshow interface available (for reviewing the material via the institution’s Web site).

The various categories of cultural heritage institution were similar in their use of photos of works of art; no group differed from any others to a statistically significant extent. Likewise, sharing of such photos was very rare across the board. That said, responses from both museums and archive maintainers exhibited rather extensive variability in relation to these two practices. Figure 10 covers both relevant items. No statistically significant differences from teachers and lecturers^{*22} emerged in either regard.

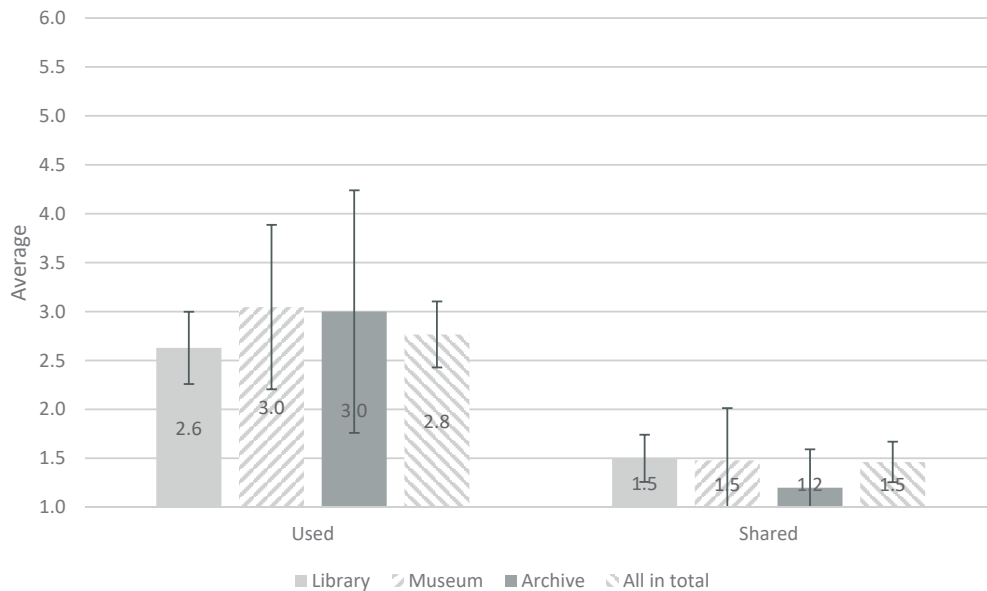


Figure 10. The survey asked respondents to use a 1 to 6 Likert scale (1 = ‘not at all’ ... 6 = ‘very often’) to indicate the extent of their use of photos of work of art (e.g., paintings, graphic works, and sculptures), whether their own or taken by others and whether individual photos or photos used, for example, in the context of a presentation, in the education programme. Using the same scale, they reported how much they had ‘shared copies of photos of works of art with participants in the education programme for home review’

²² Ibid.

Few examples of use of photos of artwork were given, except by personnel of institutions connected with the art sector that use these in their education projects. An employee of one such institution highlighted a factor with considerable relevance in this regard and more broadly – ‘it has generally been made quite difficult for schools to use such works as illustrative material. So reproductions of Estonian art, which are publicly available... I think for a teacher to make a presentation to talk about an artist’s life is an absolute nuisance. Inevitably, there isn’t a better word, because they are [...] in low resolution and then when you show them they are blurry [...]. This is all related to copyright’.

When photos of artwork did get shared in educational programmes, libraries and archive entities engaged in this practice mainly by means of links to materials on the Web while museums tended to prefer sharing copies of photos directly (see Figure 11). In general, both sharing copies of photos and using links to online materials seem slightly more commonplace among those conducting education programmes in cultural heritage institutions than among teachers and lecturers.^{*23}

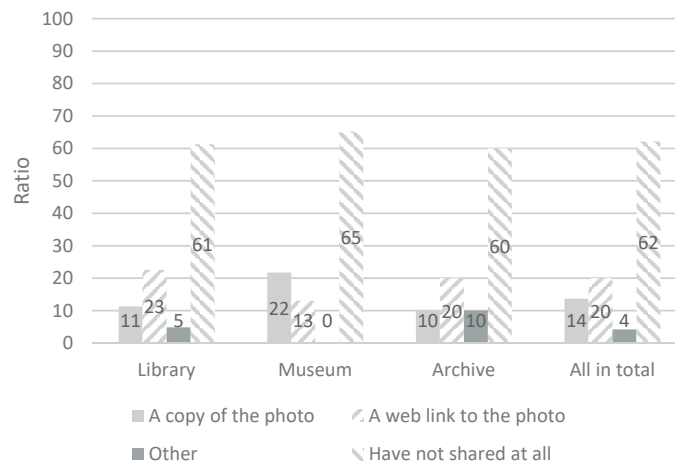


Figure 11. Responses related to forms of sharing of photos of works of art with participants in the education programme: ‘I have mostly made available to them a copy of the photo (in paper or digital form) (1), a link to the photo as available on the Web (2), other relevant material/details (3), or no such material or information at all (4)’

Four respondents mentioned sharing by other means. They cited the following methods: sharing at an exhibition, sharing the data source, and making a slideshow available for review via an application interface on the institution’s Web site. One respondent elaborated further: ‘In presentations, I have sometimes used photos and the like, and professional associations have sometimes requested a presentation; it cannot be ruled out that a photo has included a work of art (painting, sculpture, etc.); today, I generally no longer use photos in presentations, but, of course, it cannot be excluded – photos make the presentation more lively. We have, for example, paintings deposited on the walls of libraries, and sometimes these have also appeared in pictures. But I was definitely bolder in the past than I am today, now that I am more aware of the rights of the author and various associations’.

Musical works were used quite infrequently in cultural heritage institutions, which display a pattern similar to general-education schools, vocational schools, and higher-education institutions in this respect^{*24}. No statistically significant differences across libraries, museums, and archive entities were evident in this regard as (see Figure 12).

²³ Ibid.

²⁴ Ibid.

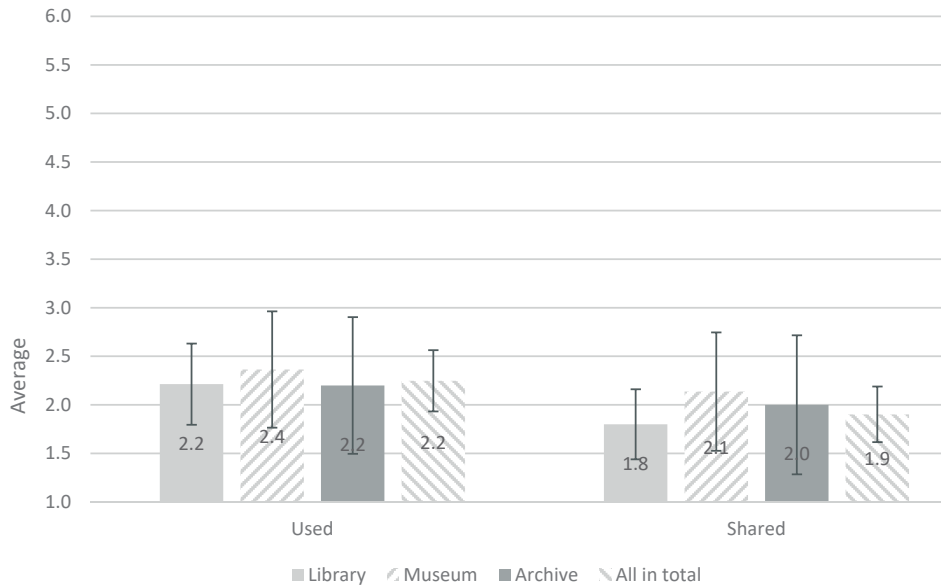


Figure 12. Respondents indicated how much they used musical works – e.g., lyrics; music recordings, with or without words; and/or music videos – for the implementation of the education programme, on a scale of 1–6 (for ‘not at all’ to ‘very often’). They used the same scale for the item ‘In using a musical work, I have used the complete work and have not limited myself to excerpts (e.g., a part of the musical work)’

Characterising the use of musical works in education programmes, a library employee highlighted in the group-interview setting that ‘[o]ur library has a music and film hall, and we also organise musical library lessons where we actually play sound excerpts. The musical library lessons are largely aimed at schools, kindergartens, or educational institutions’. A museum worker added that she had never used music in educational programmes but then explained: ‘We have an audio guide, and in this audio guide we have used various archival materials for which we have obtained a licence for use with the exhibition’s audio guide. And then I have had students listen to it out loud, so they can hear someone’s memory excerpt, and there was also a small piece of melody somewhere.’ An archive worker confirmed the infrequent use of music, saying the following about her archive lessons: ‘Sometimes, when we have the lesson on the symbols in the Estonian state coat of arms, I play the anthem somewhere.’

When musical works were used in educational programmes, the most common practice across the three groups of cultural heritage institution was to play music found online without overtly copying it (see Figure 13). Other methods of use listed in the survey item were reported very rarely, with use of performances presented via a physical medium being slightly more frequent.

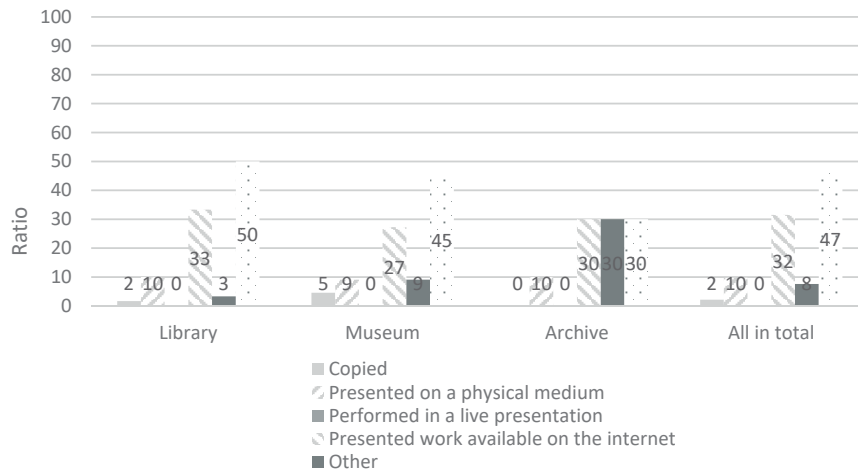


Figure 13. With regard to use of musical works in the education programme, responses to the item ‘I have mostly copied the musical work to then present in the education programme (1), presented a musical work in the programme by means of a physical medium (e.g., a CD, DVD, or Blu-ray disc) (2), performed the musical work live (3), presented participants in the education programme with a musical work available on the Internet without making an overt copy of it (e.g., playing music from YouTube or Spotify during the lesson) (4), applied some other technique (5), or not used such resources at all (6)’

Other methods of sharing were cited by seven respondents. One clarified that ‘I have copied works onto a disc for listening at an exhibition, presented songs from Web links for listening in class, played music from a CD in class, and also sung myself and asked participants to sing along’. Other clarifications explained that the music was recorded as a commissioned work, the respondent had engaged in live performance and playing directly from online sources equally, the source was the archive’s database, the programme had used the National Archives (Rahvusarhiiv) database MEDiateek, and that played had been handled via a Web-based platform.

Reflecting on home listening, facilitators of educational programmes at cultural heritage institutions reported engaging in practically no sharing of musical works at all – none of the museum or archive workers participating in the study reported having done such sharing, and only seven out of the 59 library workers who answered the corresponding question had. However, it turns out that some respondents might not have fully understood this question, in that several who denied sharing went on to report on the manner in which they had made musical works available to participants in the programme – a full 34 responses fall into this class. Sharing of names was commonplace, with use of links being less frequent. Figure 14 presents the relevant results.

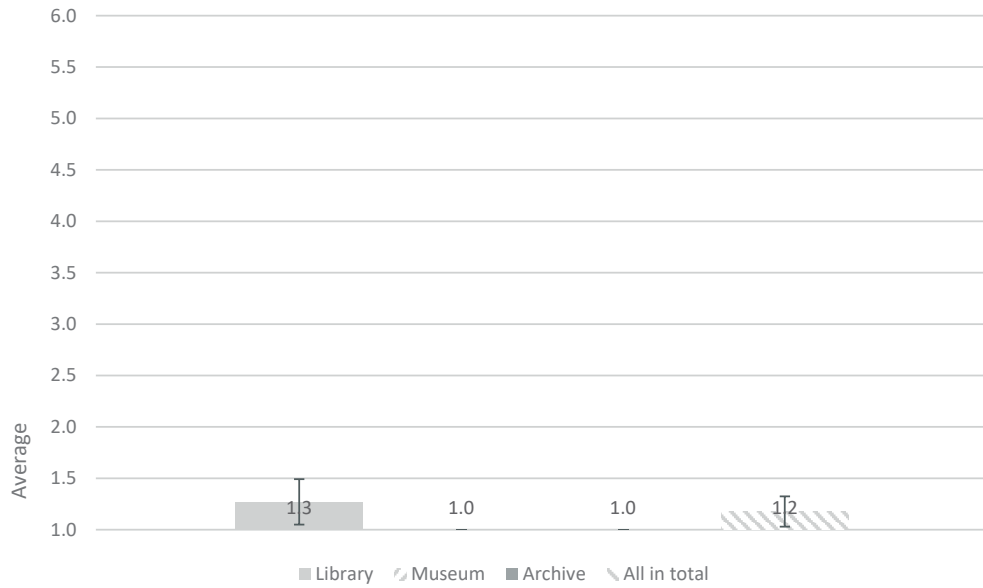


Figure 14. The nature of any sharing of musical works with learners, as reported by respondents, where 1 = having most commonly made available to them a copy of the musical work; 2 = having typically named the musical work, such that learners could explore it independently; 3 = sharing a Web link to the musical work (e.g., for environments such as YouTube, Spotify, etc.); 4 = usually engaging in some other form of sharing; and 5 = not sharing such resources at all

Five respondents reported other methods of sharing. They described these as the following: ‘on a server, in a separate media catalogue’; ‘citing the work’s name, to enable independent exploration or directing people toward borrowing or to using library databases’; ‘played from a phone or tape-player’; ‘media library’; and ‘presentation available for review on the institution’s Web site’.

Audio-visual works were most commonly used by archival entities, although the extensive variability of responses rendered the average from this respondent group not statistically significantly different from that of library- or museum-based implementers of education programmes (see Figure 15). A similar pattern was evident for the use of complete works. The figure reflects this too. Generally, use of audio-visual works is less prevalent in cultural heritage institutions than in teachers’ practices and its extent more closely resembles that among university lecturers.^{*25}

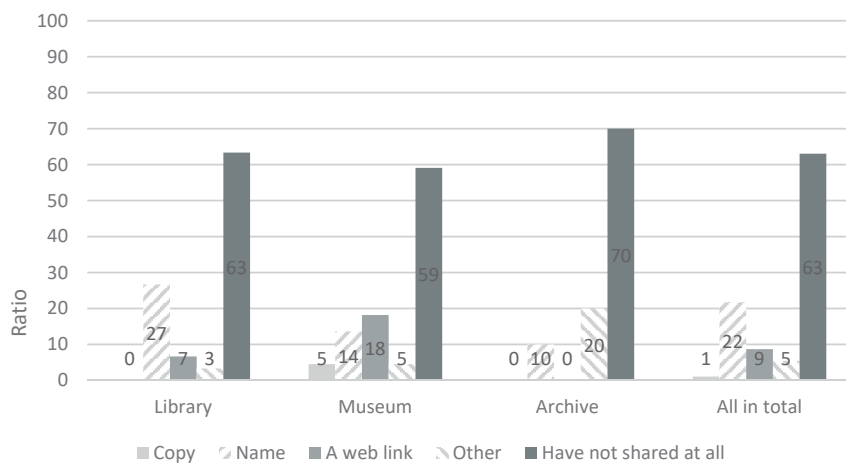


Figure 15. With regard to the educational programme considered, respondents indicated the degree to which they used audio-visual works: telefilm, video film, documentaries, etc. They also addressed whether any such use involved the complete work as opposed to excerpts (portions of the audio-visual works). Responses were on the above-mentioned 1–6 scale

²⁵ Ibid.

From analysis based on the interviews, it emerged that audio-visual materials serve more frequently in the educational programmes of archive institutions than in the other cultural heritage institutions studied. An archive worker pointed out: 'In some ways, we fulfil the orders of the archive pedagogues, so if they need something like a film programme or to compile a series of photos, or [...] are indeed in our building, then yes' and, in addition, 'when school groups visit in a similar manner, they also have various desires, whether someone wants examples of propaganda or is interested in a specific operator, be it Andres Sööt or whoever. So, in that sense, it's easy for us because we really show in our own house that we have digitalised. But really, if you are now talking about schools and teachers, then this is the point where they use what we have publicly put into the database. So they can illustrate directly through our database'.

When respondents used audio-visual works, they did so most commonly in viewing with participants in the programme in a television, YouTube/Vimeo, or streaming environment (see Figure 16).

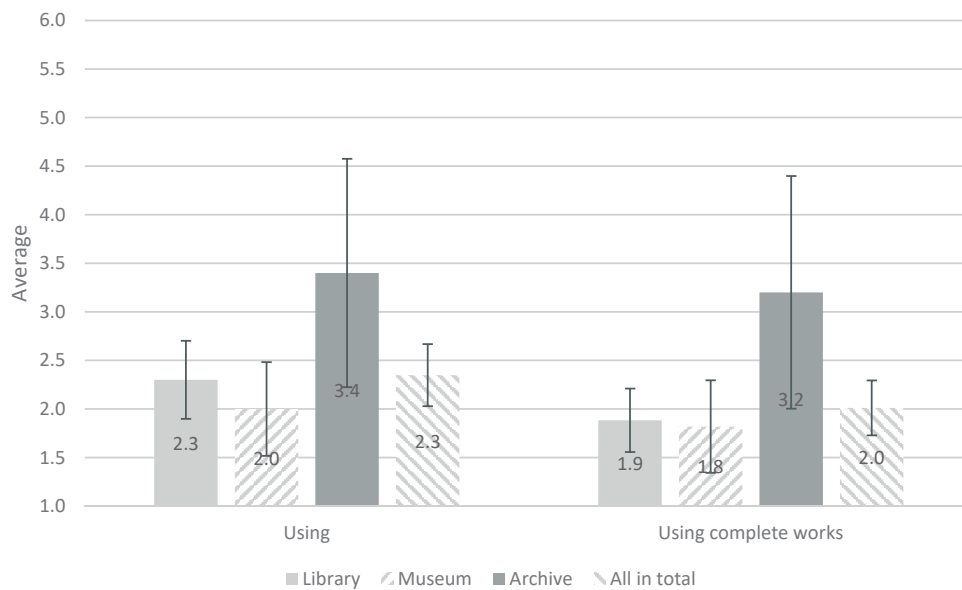


Figure 16. The nature of respondents' reported use of audio-visual works for education-programme purposes: 'I have mostly copied the audio-visual work (1); presented the audio-visual work to participants in the education programme on a physical data carrier (e.g., CD, DVD, or Blu-ray disc) (2); watched it with education-programme participants in a cinema setting (3); watched it with participants on television or via a medium such as YouTube, Vimeo, or a streaming service (4); used some other method (5); or not engaged in such use at all (6)'

Other methods of sharing featured in responses from six respondents. The following sharing methods were cited: relying on a server, involving a separate media catalogue; directing learners to borrow the materials or refer to library databases; presenting the material from a phone or a cassette-player; making use of a media library; and making a presentation available for review on the institution's Web site.

The providers of education programmes very rarely reported sharing audio-visual works for participants to watch at home (see Figure 17). When they did share them, the most typical mechanism was to make a Web link available to participants, with other methods of sharing trailing far behind this (see Figure 18).

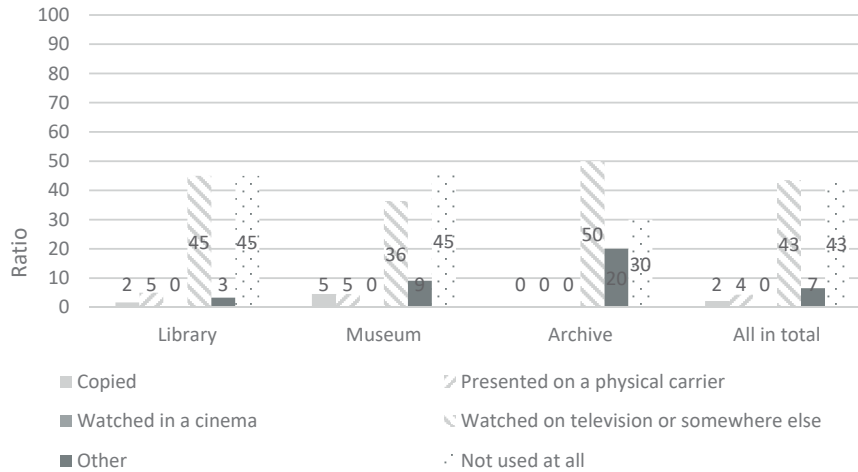


Figure 17. Responses for the item ‘I have shared audio-visual works for learners to watch at home’, where scores are on a 1–6 Likert scale for ‘not at all’ to ‘very often’

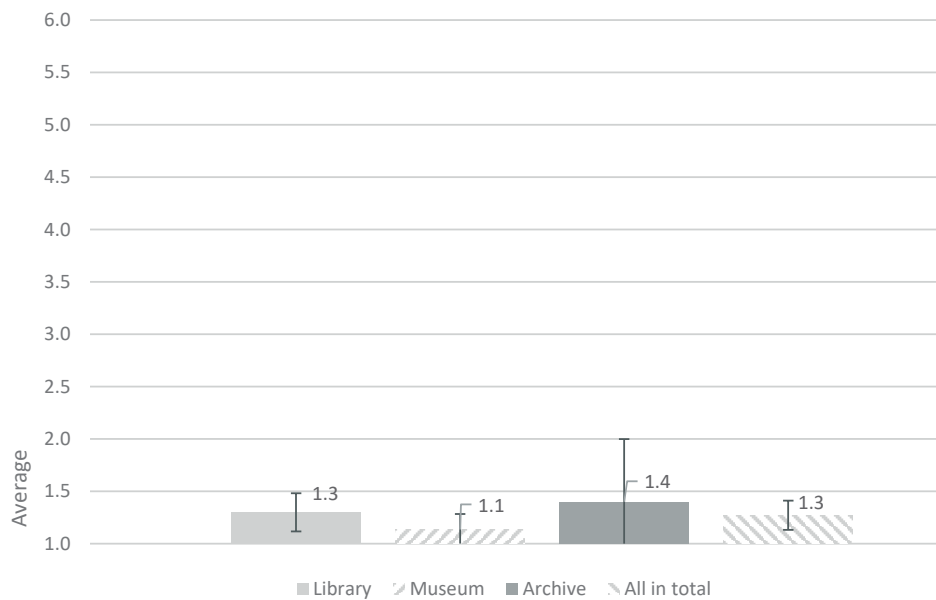


Figure 18. Respondents’ reporting on the main form of sharing of audio-visual works with participants in the education programme in question, where ‘1’ refers to a copy of the audio-visual work, ‘2’ denotes provision of a Web link to the audio-visual work (e.g., on YouTube), ‘3’ = citing of the audio-visual work such that participants in the programme could familiarise themselves with it, and ‘4’ = no sharing whatsoever

4. Conclusions

The 105 implementers of education programmes who had answered at least one question related to copyright in the questionnaire portion of the survey can be broken down by institution category thus: 68 representatives of libraries, 25 workers with museums, and 12 archives personnel.

Whereas the preceding portion of the article dealt with question-specific responses in detail, we now synthesise the findings into a general summary covering the answers to the questionnaire’s copyright questions, which is enriched with input from the focus-group interviews.

First of all, the general questions related to copyright competence and to the volume and form of copying were illuminating.

While respondents assessed their knowledge in the field of copyright as average, the interviews and subsequent copyright-related training revealed some uncertainty and needs for additional training and guidance materials. In addition to issues related to educational materials, there is a need to raise awareness of other matters, through thematically organised training.

The researchers ascertained that copying gets performed both on paper and digitally, with a slight preference for digital formats. The use of paper-based materials varies somewhat by institution category. Museums used them the most, with libraries utilising them nearly as much (there was no statistically significant difference). Archives' education programmes employed printed materials considerably less frequently. Overall, the extent of these materials' use did not differ between cultural heritage institutions and educational institutions in a statistical sense.

The extent of copying constitutes a crucial question from the standpoint of implementing the education exception. When materials were copied, copying of complete works was very rarely the choice, with archive institutions being a clear exception: respondents' estimates revealed relatively extensive variability among archive maintainers.

Copying of literary and reference works proved slightly more commonplace among libraries and museums than in archive institutions' programmes, but, again, the responses from archive staff manifested extensive variation, and none of the groups studied differed significantly from the others in a statistical sense.

Comparison between the two studies' datasets revealed that copying of photographs appears slightly more frequent among implementers of education programmes in cultural heritage institutions than among teachers and university lecturers. In comparisons among the three categories of institution in this study, no statistically significant differences emerged. Sharing of photographs was similar in profile between cultural heritage institutions' education programmes and the sharing reported by teachers and university lecturers.

Music works proved relatively rarely used in cultural heritage institutions, thereby manifesting a pattern similar to that of general-education, vocational, and higher-education institutions.

Audio-visual works were used most commonly by the archive maintainers, although their considerable variability in responses rendered the average for this (relatively small) respondent group not statistically significantly different from that of the implementers of library- or museum-based education programmes.

Proceeding from both the survey data and our interviews, one can conclude that, generally, Estonian cultural heritage institutions' reliance on the education exception is in accordance with copyright law. Additionally, other copyright exceptions that extend to cultural heritage institutions must be taken into account. The findings of the study could be further applied not only in policymaking related to the education-based exception to copyright but also in preparing guidelines and professional-development activities aimed at educators working in cultural heritage institutions. Partly to gauge the results of these, further research could apply this study's questionnaire design so as to facilitate monitoring of longitudinal changes in the practices of using copyrighted materials among those who handle and execute education programmes in the country's cultural heritage institutions.